IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CR No. 104 of 2006.

Decided on : August 25, 2006.

Smt. Ram Piari & ors. **…..Petitioners.**

VERSUS

Smt. Vimal Chopra & anr. **…..Respondents.**

Coram

The Hon'ble Mr. Justice Surjit Singh, Judge.

Whether approved for reporting?[1]

For the petitioners: **Mr.R.K.Bawa, Sr. Advocate with Mr. Raj Pal Thakur, Advocate.**

For the Respondents : **Mr. Ajay Kumar Sood, Advocate.**

Surjit Singh, Judge (Oral)

Heard and gone through the record.

2. The eviction of the revision petitioners, who are the tenants in certain premises situated in Boileauganj locality of Shimla town was sought, inter alia, on the ground that the premises are bonafide required by the landlords for rebuilding and reconstruction, which cannot be carried out unless the building is vacated. The Rent Controller, after recording the evidence led by the parties found that the requirement pleaded by the landlords was bonafide and consequently ordered the eviction on the aforesaid ground.

Whether the reporters of the local papers may be allowed to see the Judgment?

3. Appeal filed by the revision petitioners/ tenants before the Appellate Authority stands dismissed. The learned counsel representing the revision petitioners has submitted the following points:-

(1) Neither of the two landlords entered the witness box to testify about the alleged requirement;

(2) The expert examined by the landlords admitted that rebuilding/ reconstruction was possible without vacation of the building;

(3) The landlords had obtained the permission from the Municipal Corporation for rebuilding/ reconstruction, whereas according to the notification issued in 2000 by the State Government, rebuilding/ reconstruction in the core area (premises are stated to be situated in the area declared as core area) cannot be carried out without the prior approval of the State Government.

4. No doubt, neither of the two landlords entered the witness box, but their attorney, who happens to be the father of one of the landlords and the husband of the other, entered the witness box. This attorney is supposed to be fully aware of the facts of the case. The landlord, who is the son of the attorney, is stated to be serving in the Indian Navy and because of that he could not enter the witness box. The other (landlady) is stated to be an old woman. Under these circumstances and particularly the fact that the attorney is closely related to the landlords and is in fact the head of the family, I do not think that an adverse inference is required to be drawn against the landlords for not entering the witness box.

5. It is true that in his cross-examination the expert examined by the landlords has stated that rebuilding/ reconstruction can be carried out without vacation of the building, but two witnesses examined by the revision petitioners themselves, one of whom is an expert, have categorically stated that the building cannot be reconstructed unless it is vacated.

6. Petition was filed in the year 1998. Before filing the petition, the landlords obtained the permission of the Municipal Corporation. Notification of 2000 making it mandatory that reconstruction cannot be carried out in the core area without the prior approval of the State Government, was issued after the filing of the petition. This notification was issued in 2000. Therefore, the fact that the landlords are not possessed of such approval from the State Government would not show that they do not bonafide want to reconstruct / rebuild the building in question.

7. For the foregoing reasons, the revision petition is dismissed.

8. Learned counsel representing the revision petitioners has submitted that some time may be given for vacating the premises. Counsel representing the respondents says that six months' time may be given on tenants' furnishing usual undertaking that on the expiry of such time, they will vacate the premises. Accordingly, it is ordered that in case the tenants furnish the usual undertaking within two weeks that they will vacate the premises, on expiry of six months period from today, the impugned order shall not be executed for six months.

CMP No. 402 of 2006.

9. Interim order, dated 21.7.2006, stands vacated and the application is dismissed.

CMP No. 403 of 2006.

10. Infructuous.

August 25, 2006. **(Surjit Singh)**
(Hem) **Judge.**